

may be considered to be both an air carrier and commuter operator for purposes of this subpart.

[Doc. No. 24105, 50 FR 52195, Dec. 20, 1985, as amended by Amdt. 93-52, 51 FR 21717, June 13, 1986; Amdt. 93-57, 54 FR 34906, Aug. 22, 1989; 54 FR 37303, Sept. 8, 1989; Amdt. 93-65, 57 FR 37314, Aug. 18, 1992]

§ 93.215 Initial allocation of slots.

(a) Each air carrier and commuter operator holding a permanent slot on December 16, 1985, as evidenced by the records of the air carrier and commuter operator scheduling committees, shall be allocated those slots subject to withdrawal under the provisions of this subpart. The Chief Counsel of the FAA shall be the final decisionmaker for initial allocation determinations.

(b) Any permanent slot whose use on December 16, 1985 is divided among different operators, by day of the week, or otherwise, as evidenced by records of the scheduling committees, shall be allocated in conformity with those records. The Chief Counsel of the FAA shall be the final decisionmaker for these determinations.

(c) A carrier may permanently designate a slot it holds at Kennedy International Airport as a seasonal slot, to be held by the carrier only during the corresponding season in future years, if it notifies the FAA (at the address specified in § 93.225(e)), in writing, the preceding winter seasons or by October 15 of the preceding year for summer seasons.

(d) Within 30 days after December 16, 1985, each U.S. air carrier and commuter operator must notify the office specified in § 93.221(a)(1), in writing, of those slots used for operations described in § 93.217(a)(1) on December 16, 1985.

(e) Any slot not held by an operator on December 16, 1985 shall be allocated in accordance with the provisions of §§ 93.217, 93.219 or 93.225 of this subpart.

[Doc. No. 24105, 50 FR 52195, Dec. 20, 1985, as amended by Amdt. 93-52, 51 FR 21717, June 13, 1986]

§ 93.217 Allocation of slots for international operations and applicable limitations.

(a) Any air carrier of commuter operator having the authority to conduct

international operations shall be provided slots for those operations, excluding transborder service solely between HDR airports and Canada, subject to the following conditions and the other provisions of this section:

(1) The slot may be used only for a flight segment in which either the takeoff or landing is at a foreign point or, for foreign operators, the flight segment is a continuation of a flight that begins or ends at a foreign point. Slots may be obtained and used under this section only for operations at Kennedy and O'Hare airports unless otherwise required by bilateral agreement and only for scheduled service unless the requesting carrier qualifies for the slot on the basis of historic seasonal operations, under § 93.217(a)(5).

(2) Slots used for an operation described in paragraph (a)(1) of this section may not be bought, sold, leased, or otherwise transferred, except that such a slot may be traded to another slot-holder on a one-for-one basis for a slot at the same airport in a different hour or half-hour period if the trade is for the purpose of conducting such an operation in a different hour or half-hour period.

(3) Slots used for operations described in paragraph (a)(1) of this section must be returned to the FAA if the slot will not be used for such operations for more than a 2-week period.

(4) Each air carrier or commuter operator having a slot that is used for operations described in paragraph (a)(1) of this section but is not used every day of the week shall notify the office specified in § 93.221(a)(1) in writing of those days on which the slots will not be used.

(5) Except as provided in paragraph (a)(10) of this section, at Kennedy and O'Hare Airports, a slot shall be allocated, upon request, for seasonal international operations, including charter operations, if the Chief Counsel of the FAA determines that the slot had been permanently allocated to and used by the requesting carrier in the same hour and for the same time period during the corresponding season of the preceding year. Requests for such slots must be submitted to the office specified in § 93.221(a)(1), by the deadline

published in a FEDERAL REGISTER notice for each season. For operations during the 1986 summer season, requests under this paragraph must have been submitted to the FAA on or before February 1, 1986. Each carrier requesting a slot under this paragraph must submit its entire international schedule at the relevant airport for the particular season, noting which requests are in addition to or changes from the previous year.

(6) Except as provided in paragraph (a)(10) of this section, additional slots shall be allocated at O'Hare Airport for international scheduled air carrier and commuter operations (beyond those slots allocated under §§ 93.215 and 93.217(a)(5) if a request is submitted to the office specified in § 93.221(a)(1) and filed by the deadline published in a FEDERAL REGISTER notice for each season. These slots will be allocated at the time requested unless a slot is available within one hour of the requested time, in which case the unallocated slots will be used to satisfy the request.

(7) If required by bilateral agreement, additional slots shall be allocated at LaGuardia Airport for international scheduled passenger operations within the hour requested.

(8) To the extent vacant slots are available, additional slots during the high density hours shall be allocated at Kennedy Airport for new international scheduled air carrier and commuter operations (beyond those operations for which slots have been allocated under §§ 93.215 and 93.217(a)(5)), if a request is submitted to the office specified in § 93.221(a)(1) by the deadline published in a FEDERAL REGISTER notice for each season. In addition, slots may be withdrawn from domestic operations for operations at Kennedy Airport under this paragraph if required by international obligations.

(9) In determining the hour in which a slot request under §§ 93.217(a)(6) and 93.217(a)(8) will be granted, the following will be taken into consideration, among other things:

- (i) The availability of vacant slot times;
- (ii) International obligations;
- (iii) Airport terminal capacity, including facilities and personnel of the

U.S. Customs Service and the U.S. Immigration and Naturalization Service;

(iv) The extent and regularity of intended use of a slot; and

(v) Schedule constraints of carriers requesting slots.

(10) At O'Hare Airport, a slot will not be allocated under this section to a carrier holding or operating 100 or more permanent slots on the previous May 15 for a winter season or October 15 for a summer season unless:

(i) Allocation of the slot does not result in a total allocation to that carrier under this section that exceeds the number of slots allocated to and scheduled by that carrier under this section on February 23, 1990, and as reduced by the number of slots reclassified under § 93.218, and does not exceed by more than 2 the number of slots allocated to and scheduled by that carrier during any half hour of that day, or

(ii) Notwithstanding the number of slots allocated under paragraph (a)(10)(i) of this section, a slot is available for allocation without withdrawal of a permanent slot from any carrier.

(b) If a slot allocated under § 93.215 was scheduled for an operation described in paragraph (a)(1) of this section on December 16, 1985, its use shall be subject to the requirements of paragraphs (a)(1) through (a)(4) of this section. The requirements also apply to slots used for international operations at LaGuardia Airport.

(c) If a slot is offered to a carrier in other than the hour requested, the carrier shall have 14 days after the date of the offer to accept the newly offered slot. Acceptance must be in writing and sent to the office specified in § 93.221(a)(1) and must repeat the certified statements required by paragraph (e) of this section.

(d) The Office of the Secretary of Transportation reserves the right not to apply the provisions of this section, concerning the allocation of slots, to any foreign air carrier or commuter operator of a country that provides slots to U.S. air carriers and commuter operators on a basis more restrictive than provided by this subpart. Decisions not to apply the provisions of this section will be made by the Office of the Secretary of Transportation.

(e) Each request for slots under this section shall state the airport, days of the week and time of the day of the desired slots and the period of time the slots are to be used. Each request shall identify whether the slot is requested under paragraph (a)(5), (6), or (8) and identify any changes from the previous year if requested under both paragraphs. The request must be accompanied by a certified statement signed by an officer of the operator indicating that the operator has or has contracted for aircraft capable of being utilized in using the slots requested and that the operator has bona fide plans to use the requested slots for operations described in paragraph (a).

[Doc. No. 24105, 51 FR 21717, June 13, 1986, as amended by Amdt. 93-61, 55 FR 53243, Dec. 27, 1990; 56 FR 1059, Jan. 10, 1991; Amdt. 93-78, 64 FR 53565, Oct. 1, 1999]

§ 93.218 Slots for transborder service to and from Canada.

(a) Except as otherwise provided in this subpart, international slots identified by U.S. carriers for international operations in December 1985 and the equivalent number of international slots held as of February 24, 1998, will be domestic slots. The Chief Counsel of the FAA shall be the final decision-maker for these determinations.

(b) Canadian carriers shall have a guaranteed base level of slots of 42 slots at LaGuardia, 36 slots at O'Hare for the Summer season, and 32 slots at O'Hare in the Winter season.

(c) Any modification to the slot base by the Government of Canada or the Canadian carriers that results in a decrease of the guaranteed base in paragraph (b) of this section shall permanently modify the base number of slots.

[Doc. No. FAA-1999-4971, 64 FR 53565, Oct. 1, 1999]

§ 93.219 Allocation of slots for essential air service operations and applicable limitations.

Whenever the Office of the Secretary of Transportation determines that slots are needed for operations to or from a High Density Traffic Airport under the Department of Transportation's Essential Air Service (EAS) Program, those slots shall be provided

to the designated air carrier or commuter operator subject to the following limitations:

(a) Slots obtained under this section may not be bought, sold, leased or otherwise transferred, except that such slots may be traded for other slots on a one-for-one basis at the same airport.

(b) Any slot obtained under this section must be returned to the FAA if it will not be used for EAS purposes for more than a 2-week period. A slot returned under this paragraph may be reallocated to the operator which returned it upon request to the FAA office specified in § 93.221(a)(1) if that slot has not been reallocated to an operator to provide substitute essential air service.

(c) Slots shall be allocated for EAS purposes in a time period within 90 minutes of the time period requested.

(d) The Department will not honor requests for slots for EAS purposes to a point if the requesting carrier has previously traded away or sold slots it had used or obtained for use in providing essential air service to that point.

(e) Slots obtained under Civil Aeronautics Board Order No. 84-11-40 shall be considered to have been obtained under this section.

§ 93.221 Transfer of slots.

(a) Except as otherwise provided in this subpart, effective April 1, 1986, slots may be bought, sold or leased for any consideration and any time period and they may be traded in any combination for slots at the same airport or any other high density traffic airport. Transfers, including leases, shall comply with the following conditions:

(1) Requests for confirmation must be submitted in writing to Slot Administration Office, AGC-230, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591, in a format to be prescribed by the Administrator. Requests will provide the names of the transferor and recipient; business address and telephone number of the persons representing the transferor and recipient; whether the slot is to be used for an arrival or departure; the date the slot was acquired by the transferor; the section of this subpart under which